

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, DELHI**

D-1/30/2023

M/s SAR Engineers Vs. APFC, Delhi East.

Present: Sh. Sandhesh Kamlesh Jha & Sh. Shashank Shekhar Singh, Id.
Counsel for the Appellant.
Sh. Narender Kumar, Id. Counsel, Sh. Vaibhav Prasad & Sh.
Surender Singh A/R, for the Respondent.

Order dated-19.05.2025

ORAL

1. This order shall dispose an application filed on behalf of the appellant seeking waiver of the amount payable by the appellant as per **section 70 of the EPF & MP Act, 1952 (hereinafter referred as the Act)**. Perusal of the appeal reveals that the present appeal is preferred against two orders passed by the respondent u/s 14B and 7Q of the Act whereby an amount of Rs.30,12,929/- and Rs.16,52,695/- has been assessed as damages and interest for belated payment of dues during the remittances made for the period from 27/09/2018 to 31/10/2022. Therefore, in the order passed on 18.02.2025 it was made clear by this tribunal that though, the nomenclature of the application filed has been an application for waiver of deposit of amount payable by the appellant as per section 70 of the Act, however, same be treated as an application filed for granting stay on execution of the impugned order passed u/s 14B and 7Q of the Act.
2. The main contention as raised by the appellant in his application is that the appellant is the sub-contractor providing manpower supply to the CPWD who is principal employer. The delay/ failure in contribution of EPF and allied dues was only due to the irregular payment and the default on part of principal employer which led to financial inability of the appellant to make the payments in time. The appellant has further prayed in his application that his establishment is a newly established partnership firm since June, 2018 and have gone through continuous financial hardship for the above reasons and other reasons like Covid-19 pandemic that badly hit the business of the appellant. It is further prayed on behalf

of the appellant that if the present application is not accepted, then appellant will face financial hardship to complete his ongoing and future obligations towards its employees as sub-contractor. Appellant has also submitted that the appellant has good prima facie case due to the aforesaid reason and on other grounds of law to allow his appeal and requested to exempt the appellant from any payment.

3. Per contra, Ld. Counsel for the respondent by way of his written reply has opposed the application filed by the appellant stating that the order passed u/s 7Q of the Act is not appealable before this tribunal and the appellant is liable to deposit some amount due from him for entertaining of his appeal because appellant is defaulter and depriving employees for their social welfare benefit under the Act. Respondent further stated that there are no cogent reasons as even worth to be recorded in writing to grant exemption for reducing amount to be deposited u/s 14B. The appellant has no balance of convenience in his favour and depositing any amount as condition for stay shall not result into any irreparable loss to the appellant. The respondent further invites the attention of this tribunal towards para no. 5 of the stay application stating that the appellant is admitting/ confessing his fault for delayed payments and relied on the judgment passed by Hon'ble Apex Court and various High Courts in the matter of **Hindustan Times Vs Union of India & Ors. AIR 1998 SC-688, Organo Chemical Industries Case (Supra 1979 LIC 1261), Calicut Modern Spinning Mills Vs. RPFC 1981 (1) (LLJ; 440)**. It is submitted on behalf of the respondent that plea of financial hardship is not valid ground which has been rejected by various superior courts and if the appellant is seeking interim then the appellant is liable to deposit some amount as a conditional of stay granted in his favour. Respondent has also stated that the contents of the application are wrong, false, frivolous, concocted as appellant has not filed any loss and profit balance sheet or filed any documents related to financial difficulty in payments of the EPF dues.

4. I have heard both the counsel and gone through the records. As the appeal is in its initial stage and respondent is yet to file reply to the contentions raised in the main appeal, this tribunal is of the view that the appellant has succeeded in establishing a prima facie case before this tribunal. However, no case of unconditional stay has been made out.

Therefore, the appellant is directed to deposit a some of **Rs.10,00,000/-** by way of FDR favouring '**Registrar CGIT**' initially for a period of one year having auto renewal mode thereafter within a **period of six weeks** as a condition of stay on execution of the impugned orders.

5. It is made clear that if the appellant fails in complying with the condition laid down as above, there shall be no stay and respondent shall have liberty to execute the orders as per rules. Put up on 14.07.2025 for reporting compliance by the appellant as well as filing of reply to this appeal by Id. Counsel for the respondent. In the meanwhile, interim orders, to continue till next date of hearing.

Sd/-

Atul Kumar Garg
(Presiding Officer)